

## LABOUR DEPARTMENT

The 3rd September, 1976

No. 7814-4Lab. -76/24581.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the Management of M/s. Espi Agricultural Machineries, Private Limited, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD.

Reference No. 119 of 1975.

Between

SHRI HARBHAJAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S. ESPI AGRICULTURAL  
MACHINERIES, PRIVATE LIMITED, FARIDABAD

## AWARD

By order No. ID/FD/75/51273, dated 28th July, 1975 the Governor of Haryana, referred the following dispute between the management of M/s. Espi Agricultural Machineries, Private Limited, Faridabad and its workman Shri Harbhajan Singh to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act 1947.

Whether the termination of services of Shri Harbhajan Singh was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* claim statement filed by him that he being in service of the management since 8th November, 1971 as a junior Mechanic, his services were terminated by way of his dismissal, by the management on 20th February, 1975. He set up a counter case in reply to the charge-sheet served on him in respect of his having indulged in riotous behavior in the premises of the factory on 22nd January, 1975 at 8-35 A.M., that on his asking Shri Kashmira Singh a Co-workman as to why he had made a false complaint against him and other workmen on 21st January, 1975 the latter abused him in filthy language and on a protest raised by him (workman) he (Kashmira Singh) brandished a knife towards him. The workman added that he held and twisted the hand of Kashmira Singh resulting in his falling down and the knife falling on the ground from his hand and one Shri Ramesh picked up the knife and Jawahar Singh came and intervened to separate Kashmira Singh and the workman. The workman stated that the enquiry held against him in the charge-sheet was illegal and against the principles of natural justice and his dismissal order as a result thereof was wrongful and that he was thus entitled to reinstatement with continuity of service and full back wages.

The management raised a preliminary objection,—*vide* written statement filed by them, that the reference made to this Tribunal in absence of service of a notice of demands directly on them was bad in law. On merits they stated that the workman joined their service on 1st December, 1971 and not on 8th November, 1971 and the story put forth by him in respect of his having acted in self defence was concocted and that he on the other hand was the aggressor and admitted his guilt before the Enquiry Officer after he was served with the charge-sheet and before them prior thereto. They further gave out that the enquiry held against him resulting in his dismissal was legal, and complete in all respects.

The following issues were thus framed on plea of the parties,—*vide* my order dated 8th October, 1975:—

- (1) Whether the workman directly raised the demand on the management and the later rejected it before the matter was taken before the Conciliation Officer?
- (2) If not, whether the reference is bad in law?
- (3) Whether the termination of services of Shri Harbhajan Singh was justified and in order? If not, to what relief is he entitled?

I have heard the learned authorised representatives for the parties and seen the record.

Issue No. 2—

Issue No. 2 being treated as preliminary was decided by me against the management,—*vide* my order dated 10th October, 1975 for the reason stated by me in my order of that date made in reference entitled S.C. Sethi *versus*

M/S. Kirloskar Oil Engine, Mathura Road, Faridabad, wherein it was held by me that it was legally not necessary for the workman to serve a notice of demands directly on the management and for the later to reject it before the workman taking the matter to the Conciliation Officer, in order to constitute an industrial dispute. Issue No. 1 thus became redundant and no evidence was led by many of the parties on this issue.

The workman was served with a charge sheet dated 23rd January, 1975 in respect of the misconduct of his having indulged in a riotous behaviour by way of abusing Kashmira Singh a co-workman in filthy language and beaten him with hands and fists in the workshop on 22nd January, 1975 at 8-35 A.M. He in reply set up a story of having acted in self-defence as put forth by him in the claim statement. He submitted a letter of apology Ex. M-5 before the management praying for their excusing him. The management appointed Shri S. L. Gupta as an Enquiry Officer, who issued a notice to the workman for his appearance before him on 3rd February, 1975. Shri Harbhajan Singh workman accepted the charge sheet framed against him as correct before the Enquiry Officer, vide his statement dated 3rd February, 1975 made by him. Shri S. L. Gupta held the charge of misconduct established against the workman on the basis of the acceptance of the correctness of the charge sheet by him and made his finding on 4th February, 1975. The management on consideration of the findings of the enquiry officer dismissed the workman from service, vide order dated 18th February, 1975.

The only contention made before me by Shri R.N. Roy learned authorised representative for the workman being that the enquiry concluded by Shri S.L. Gupta merely on the basis of the admission of the workman made before him was illegal and could not be acted upon by the management for dismissing the workman and that the later in fact acted in the right of private self-defence and not as an aggressor. I have given these contentions my careful consideration.

Exhibit M-5 is a letter addressed to the management by Shri Harbhajan Singh, Kashmira Singh and Jawahar Singh, admitting their guilt and appealing for mercy. The statement dated 3rd February, 1975 is likewise signed by Jawahar Singh, Kashmira Singh and Harbhajan Singh workmen accepting the charge-sheet framed against them as correct. The solitary statement of the workman that his written apology was obtained by the management under a promise of his reinstatement can not be relied upon.

It was held in 1967-II-LLJ715(S.O.) between Fire Stone Tyre and Rubber Co. and their workmen that it could not be laid down as an invariable rule of law in all cases that the evidence of the management must be recorded before the examination of the workman in an enquiry and that it was permissible to record the statement of the workman before the evidence of the management was taken down particularly when the accusation was based on admitted facts. It was also again held in 1965-I-LLJ-349 that an punishment awarded on the basis of an admission made by the employee was fully justified. In view of the observations made in the aforesaid authorities it can not be said that the findings of the Enquiry Officer made on the basis of the admission of the workman of the correctness of the charge-sheet are legally vitiated. The authorities reported as 1963-II-LLJ-367 and 1975 -II-LLJ-376 relied on by the workman have no application to the facts of the case in hand and deal with matters entirely different from the same.

I thus relying on 1967-II-LLJ-715 and 1965-I-LLJ-349 hold that the enquiry held against the workman is legal in all respects and does not suffer from any infirmity. The defence story put forth by the workman remained unsubstantiated and the charges levelled against him were fully established and the order of dismissal of the workman for the misconduct of his having indulged in riotous behaviour during working hours inside the workshop is correct and justified in all respects, I therefore, decide issue No. 3 in favour of the workman with the finding that the workman is not entitled to any relief and answer the reference while returning the award in these terms.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 30th July, 1976.

No. 935, dated 30th July, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 30th July, 1976.

Dated the 8th September, 1976

No. 7935-4Lab-76/24927.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947(Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the Management of M/s Chairman, Improvement Trust, Yamunanagar.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 10 of 1976

between

SHRI MATI CHAMPA DEVI, WORKMAN AND THE MANAGEMENT OF M/S  
CHAIRMAN, IMPROVEMENT TRUST, YAMUNANAGAR.

#### AWARD

By order No. ID/AMB/462-A-75/6178, dated 10th February, 1976 of the Governor of Haryana, the following dispute between the management of M/s Chairman, Improvement Trust, Yamunanagar and its work-woman Shrimati Champa Devi, was referred to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947.

"Whether the termination of services of Shrimati Champa Devi was justified and in order? If not, to what relief is she entitled?"

The parties put in their appearance before me on 8th May, 1976 the date of hearing fixed in the case, in response to the usual notices of reference sent to them. the workman filed her claim statement on that date and the case was adjourned to 20th July, 1976 for filing of written statement of the management.

Whereas the workman absented herself on 20th July, 1976 despite being directed to appear on that date, vide order dated 18th May, 1976, the management submitted a settlement Ex. M. 1 in original alleged to have been arrived at between the parties under section 18(1) of the Industrial Disputes Act, bearing the thumb-impression of the work-woman in token of her agreement of the conditions stated therein.

*Ex parte* proceedings were taken up against the work-woman on 20th July, 1976 as a result of her absence on that date and the *ex parte* evidence of the management in proof of the settlement was recorded.

Shri Wazir Chand Sharma, authorised representative for the management while appearing as his own witness deposed that the settlement Ex. M. 1. was thumb marked by Shrimati Champa Devi in her presence after admitting its contents to be correct. I, see, no reason to disbelieve her statement, particularly when the proceedings against the work-woman are *ex parte* and she has not taken care to deny the correctness of the settlement Ex. M. 1.

I, therefore, relying on the settlement Ex. M. 1. hold that the work-woman shall be reinstated with continuity of service but she shall not be entitled to back wages. I, thus, answer the reference while returning the award in these terms.

Dated 27th July, 1976.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1748, dated 31st July, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Prssiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 7815-4Lab-76/24929.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the Management of M/s Associated Steel Industries (P) Ltd, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 92 of 1974

between

SHRIDHARAM PAUL WORKMAN AND THE MANAGEMENT OF M/S ASSOCIATED STEEL  
INDUSTRIES (P) LTD; FARIDABAD

### AWARD.

This award shall dispose of reference Nos. 92, 121, 122, 123 and 124, all of the years 1974, as common questions of facts and law are involved therein.

The Governor of Haryana, in exercise of the powers conferred on him,—*vide* clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, referred the following common dispute, in each one of these cases for adjudication, to this Tribunal respectively.

Whether the termination of services of Shri Dharam Paul/Lorik Parshad/Berinder Lal/Hari Ram/Raj Narain was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings giving rise to the following common issues in each case as framed by me,—*vide* my order dated 9th June, 1976.

- (1) Whether the services of the workman were retrenched under a settlement dated 22nd August, 1974 binding on the parties?
- (2) Whether the services of the workman were retrenched according to law, in case of non proof of issue No. 1.
- (3) In case of non proof of issues No. 1 and 2, whether the termination of services of Shri Dharam Paul was justified and in order? If not, to what relief is he entitled?

The cases were fixed for recording evidence of the management for 27th July, 1976 when the parties prayed for a short adjournment for filing a settlement under negotiations. Whereas Dharam Paul workman appeared on 29th July, 1976 and made a statement with-drawing his demand leading to the reference on the ground that he had received Rs. 225 from the management in full and final settlement of all his claims including reinstatement and re-employment, none of the other workmen appeared on that date with the result that *ex parte* proceedings were taken against each one of them.

Shri Amar Singh Sharma authorised representative of each of these other workmen made a statement that he had no instructions from him with the result that *ex parte* proceedings were taken up on 29th July, 1976 against each one of the four remaining workmen in each reference.

Shri Rattan Chand, Manager, made a statement that the workmen had received his dues in full and final settlement of all his claim including that of his reinstatement,—*vide* receipt Exhibit M. 1 duly signed by him while agreeing that no other claim had been left against the management.

I see no reason to disbelieve the statement of Shri Rattan Chand particularly when none of the workmen has not cared to appear and pursue the demand raised by him on the management leading to this reference and his authorised representative has pleaded want of instructions from him. I thus relying on the statement of Shri Rattan Chand hold that the workman received his dues in full and final settlement of all his claims including that of his reinstatement and that there is now no dispute between the parties requiring adjudication.

I answer each one of these references while returning the award in these terms.

Dated the 30th July, 1976

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

No. 936 dated 30th July, 1976

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chadigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.